

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP, Development Services Director/(954) 797-1101

SUBJECT: Resolution - Developers Agreement
DA 8-1-02 Flamingo Plat, 12901 Orange Drive/Generally located at
the northwest corner of Flamingo Road and Orange Drive

AFFECTED DISTRICT: District 4

TITLE OF AGENDA ITEM:

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY, AND SOUTHERN HOMES OF DAVIE II LLC, FOR REGIONAL ROAD CONCURRENCY RELATING TO THE FLAMINGO PLAT; PROVIDING FOR REMEDIAL MEASURES TO SATISFY CONCURRENCY REQUIREMENTS; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF:

On November 20, 2001, Town Council passed Resolution No. 2001-316, approving a boundary plat consisting of 97.05 acres for 85 single family homes. In order to satisfy roadway concurrency for this plat, the developer is entering into an agreement requiring contribution towards roadway improvements. The developer has agreed to pay \$25,000 which represents the County's cost to install video detection equipment at the intersection of Flamingo Road and Griffin Road. The Town is party to this Developers Agreement solely for the purpose of issuing a certificate of occupancy. The agreement states that the Town shall not issue a certificate of occupancy for any development within the plat until the Town receives confirmation from the County that the payment required has been received.

PREVIOUS ACTIONS: None

CONCURRENCES: None

FISCAL IMPACT: None

RECOMMENDATION: Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration.

Attachments: Resolution, Regional Road Concurrency Agreement, Future Land Use Map, Subject Site, Zoning and Aerial Map

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY, AND SOUTHERN HOMES OF DAVIE II LLC, FOR REGIONAL ROAD CONCURRENCY RELATING TO THE FLAMINGO PLAT; PROVIDING FOR REMEDIAL MEASURES TO SATISFY CONCURRENCY REQUIREMENTS; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Southern Homes of Davie II LLC propose to develop properties known as the Flamingo Plat; and

WHEREAS, Broward County requires remedial measures to satisfy concurrency requirements related to the Flamingo Plat.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Town Council of the Town of Davie does hereby authorize the Mayor and Town Administrator to enter into an Agreement, attached hereto as Exhibit "A", between Broward County, Southern Homes of Davie II LLC, and the Town of Davie, whereby the Town of Davie shall not issue any certificates of occupancy until the improvement described is constructed in accordance with the Agreement.

SECTION 2. The Town Administrator and Town Attorney are authorized to make and accept non-substantive revisions to the agreement in order for the agreement to be in final, recordable form.

SECTION 3. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2002.

MAYOR/COUNCILMEMBER

Attest:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2002.

Return recorded document to:

Development Management Division
115 S. Andrews Avenue, A240
Fort Lauderdale, FL 33301

Document prepared by:

**REGIONAL ROAD CONCURRENCY AGREEMENT -
COUNTY PROJECT**

This is an Agreement, made and entered into by and between: BROWARD COUNTY, a political subdivision of the state of Florida, hereinafter referred to as "COUNTY,"

AND

Southern Homes of Davie II LLC, its successors and assigns,
hereinafter referred to as DEVELOPER,

[AND IF THE PROPERTY IS LOCATED WITHIN A MUNICIPALITY]

The City of Town of Davie, a municipal corporation, created and existing under the laws of the State of Florida, its successors and assigns, hereinafter referred to as "CITY."

WHEREAS, Chapter 5, Article IX, Broward County Code of Ordinances, requires that the regional transportation network be adequate to serve the reasonably projected needs of proposed developments; and

WHEREAS, Chapter 5, Article IX, Broward County Code of Ordinances, more specifically requires that an application for a development permit satisfy concurrency requirements for impact areas; and

WHEREAS, DEVELOPER has applied for approval of or an amendment to the Flamingo Plat, hereinafter referred to as "PLAT," more particularly described in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, on February 8th, 2002, the Broward County Development Management Division issued a Notification of Failure to Satisfy Broward County Concurrency Standards for the regional transportation network, finding that the application for approval of or amendment to the PLAT does not satisfy the impact area concurrency standards for the regional road network as stated in Section 5-182 of the Broward County Land Development Code ("CODE"); and

WHEREAS, the COUNTY has undertaken a countywide project to install video detection equipment at signalized intersections, hereinafter referred to as "Project"; and

WHEREAS, DEVELOPER has agreed to pay to COUNTY the sum of \$25,000 which is the cost of installing video detection equipment, as described in Exhibit "B" attached hereto, at the intersection of Flamingo Road & Griffin Road; and

WHEREAS, the Broward County Development Management Division has approved this remedial measure and finds that its concurrency requirements for the PLAT will be met with the execution of, and compliance with, the terms of this Agreement by DEVELOPER; NOW, THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, COUNTY and DEVELOPER agree as follows:

1. The above recitals are true and correct and are hereby incorporated herein.
2. CONSTRUCTION OF IMPROVEMENTS.
 - (a) DEVELOPER agrees to pay \$25,000 which represents COUNTY's cost of the IMPROVEMENT(S) described in Exhibit "B," hereinafter referred to as "the Improvements." DEVELOPER agrees that payment must be made either prior to recordation of the plat or the agreement amending the note on the face of the plat.
 - (b) COUNTY and DEVELOPER agree that no security is required for the IMPROVEMENT(S), as the payment will be made prior to recordation of the plat or the agreement amending the note on the face of the plat.
 - (c) In the event that the amount of money or any portion thereof the DEVELOPER has agreed to pay pursuant hereto becomes due and payable as provided herein and continues unpaid for thirty (30) days or more thereafter, the entire unpaid balance of such amount, plus costs and interest accrued from the due date at the rate of twelve (12) per cent per annum, shall become immediately due and payable.

- (d) Developer agrees that this agreement shall be recorded in the Official Records of Broward County, Florida, against the property described in Exhibit "A" to put subsequent purchasers, grantees, heirs, successors and assigns of any interest in such property on notice of the obligations set forth herein, which shall run with the property until fully paid and performed. However, the amount(s) set forth above shall not constitute a lien on the property unless and until the provisions below are activated by the recording of a "Notice of Lien."
3. CONCURRENCY COMPLIANCE. COUNTY finds that by executing and complying with the terms of this Agreement, DEVELOPER has satisfied the adequacy of the Regional Roadway Network requirement of the Broward County Land Development Code for the PLAT as approved by the COUNTY.
4. If the property is within a municipality, CITY agrees not to issue a certificate of occupancy for any development within the PLAT until CITY receives confirmation from COUNTY that the payment required pursuant to Section 2(a) has been received by COUNTY.
5. NOTICE. Whenever any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving of notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving notice:

For the COUNTY:

Director, Development Management Division of Broward County
115 South Andrews Avenue, Room A240
Fort Lauderdale, FL 33301

Director of the Broward County Engineering Division
115 South Andrews Avenue, Room 321
Fort Lauderdale, FL 33301

For the DEVELOPER:

Southern Homes of Davie II LLC

12900 SW 128 Street Suite 200

Miami Florida 33186

For the CITY:

Development Service Department

Planning and Zoning Division

6591 Orange Drive

Davie Florida 33114-3399

6. RECORDATION. This Agreement shall be recorded in the Public Records of Broward County Florida, at the DEVELOPER'S expense. The benefits and obligations contained in this Agreement shall inure to grantees, successors, heirs, and assigns who have an interest in the PLAT.
7. VENUE: CHOICE OF LAW. Any controversies or legal issues arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State Courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue sitis, and shall be governed by the laws of the State of Florida.
8. CHANGES TO FORM AGREEMENT. DEVELOPER represents and warrants that there have been no amendments or revisions whatsoever to the form Agreement without the prior written consent of the County Attorney's Office. Any unapproved changes shall be deemed a default of this Agreement and of no legal effect.
9. CAPTIONS AND PARAGRAPH HEADINGS. Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provisions hereof.
10. NO WAIVER. No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.
11. EXHIBITS. All Exhibits attached hereto contain additional terms of this Agreement and are incorporated herein by reference. Typewritten or handwritten provisions

inserted in this Agreement or attached hereto shall control all printed provisions in conflict therewith.

12. FURTHER ASSURANCES. The parties hereby agree to execute, acknowledge and deliver and cause to be done, executed, acknowledged and delivered all further assurances and to perform such acts as shall reasonably be requested of them in order to carry out this Agreement.
13. ASSIGNMENT AND ASSUMPTION. DEVELOPER may assign all or any portion of its obligations pursuant to this Agreement to a grantee of the fee title to all or any portion of the property described in Exhibit "A." DEVELOPER agrees that any assignment shall contain a provision which clearly states that such assignment is subject to the obligations of this Agreement.
14. AMENDMENTS. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the parties to this Agreement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Chair or Vice Chair, authorized to execute same by Board action on the _____ day of _____, 20____, CITY OF _____, signing by and through its Mayor and City Manager, duly authorized to execute same, and DEVELOPER, signing by and through its _____ duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

County Administrator and
Ex-Officio Clerk of the
Board of County Commissioners
of Broward County, Florida

By _____
Chair

_____ day of _____, 20____

Approved as to form by
Office of County Attorney
Broward County, Florida
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

By _____

Assistant County Attorney

DEVELOPER-CORPORATION/PARTNERSHIP

Witnesses (if partnership):

MAGALY CHEDIAK
(Signature)
Print name: MAGALY CHEDIAK
DANIEL VILLANUEVA
(Signature)
Print name: DANIEL VILLANUEVA

SOUTHERN HOMES OF DAVIE II LLC
(Name of Developer (corporation/partnership))
By HECTOR GARCIA
(Signature)
Print name: HECTOR GARCIA
Title: PRESIDENT SOUTHERN HOMES OF BROWARD INC.
Address: 12900 SW 128 ST #200 ITS MANAGER
MIAMI FLORIDA 33186
20th day of MAY, 2002

ATTEST (if corporation):

(Secretary Signature)
Print Name of Secretary: _____
(CORPORATE SEAL)

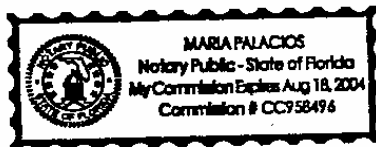
ACKNOWLEDGMENT - CORPORATION/PARTNERSHIP

STATE OF _____)
COUNTY OF _____) SS.

The foregoing instrument was acknowledged before me this 20th day of MAY, 2002, by HECTOR GARCIA, as PRESIDENT of SOUTHERN HOMES OF BROWARD INC., a FLORIDA corporation/partnership, on behalf of the corporation/partnership. He or she is:
☒ personally known to me, or
☐ produced identification. Type of identification produced _____.

(Seal)

My commission expires:



NOTARY PUBLIC:

Maria Palacios
Print name:
MARIA PALACIOS

CITY
(If Property is located within a City)

WITNESSES:

CITY of _____

By _____
Mayor-Commissioner

____ day of _____, 20____

ATTEST:

City Clerk

By _____
City Manager

____ day of _____, 20____

APPROVED AS TO FORM:

By _____
City Attorney

EXHIBIT "A"

LEGAL DESCRIPTION

LEGAL DESCRIPTION:

THAT PORTION OF THE EAST ONE-HALF (E 1/2) OF SECTION 26, TOWNSHIP 50 SOUTH, RANGE 40 EAST LYING NORTH OF THE SOUTH NEW RIVER CANAL, SAID PORTION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 26; THENCE ON A GRID BEARING OF SOUTH 01°47'01" EAST (BASED ON THE 'STONER/KEITH RESURVEY NO. 11' AS RECORDED IN MISCELLANEOUS PLAT BOOK 4, PAGE 21, BROWARD COUNTY RECORDS) ALONG THE EAST BOUNDARY OF SAID SECTION 26, A DISTANCE OF 606.00 FEET TO AN INTERSECTION WITH THE EASTERLY PROLONGATION OF THE APPROXIMATE CENTERLINE OF AN EXISTING CANAL; THENCE SOUTH 83°52'03" WEST ALONG SAID EASTERLY PROLONGATION AND SAID APPROXIMATE CENTERLINE A DISTANCE OF 135.37 FEET TO AN INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD 823, PARCEL NO. 163, ORDER OF TAKING, CIVIL ACTION NO. 88-18492DF, DATED SEPTEMBER 6TH, 1988, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE SOUTH 06°32'27" EAST ALONG SAID WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 317.60 FEET TO A POINT OF CURVATURE OF A 5576.58 FOOT RADIUS CURVE CONCAVE TO THE WEST; THENCE SOUTHERLY ALONG SAID CURVE AND SAID WESTERLY RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 01°19'32" AN ARC DISTANCE OF 123.02 FEET TO AN INTERSECTION WITH A LINE BEING PARALLEL WITH AND 50.00 FEET WEST OF (AS MEASURED AT RIGHT ANGLES TO) THE EAST LINE OF SAID SECTION 26; THENCE SOUTH 01°47'01" EAST ALONG SAID PARALLEL LINE A DISTANCE OF 600.56 FEET TO A POINT 1000.00 FEET NORTH OF (AS MEASURED ALONG SAID PARALLEL LINE) THE NORTH RIGHT-OF-WAY LINE OF SAID SOUTH NEW RIVER CANAL; THENCE SOUTH 88°26'14" WEST AND PARALLEL WITH SAID NORTH RIGHT-OF-WAY LINE A DISTANCE OF 1350.00 FEET; THENCE SOUTH 01°47'01" SECONDS EAST AND PARALLEL WITH THE EAST BOUNDARY OF SAID SECTION 26 A DISTANCE OF 320.00 FEET TO AN INTERSECTION WITH A LINE BEING PARALLEL WITH AND 80.00 FEET NORTH OF (AS MEASURED AT RIGHT ANGLES TO) THE NORTH RIGHT-OF-WAY LINE OF SOUTH NEW RIVER CANAL; SAID PARALLEL LINE ALSO BEING THE NORTH RIGHT-OF-WAY LINE OF ORANGE DRIVE, PARCEL NO. 163, ORDER OF TAKING CIVIL ACTION NO. 88-18492DF DATED SEPTEMBER 6TH, 1988; THENCE SOUTH 88°26'14" WEST ALONG SAID PARALLEL LINE AND SAID NORTH RIGHT-OF-WAY LINE A DISTANCE OF 795.34 FEET; THENCE NORTH 01°47'01" WEST AND PARALLEL WITH THE EAST BOUNDARY OF SAID SECTION 26 A DISTANCE OF 2614.80 FEET TO AN INTERSECTION WITH THE APPROXIMATE CENTERLINE OF AN EXISTING CANAL; THENCE NORTH 83°52'03" EAST ALONG SAID APPROXIMATE CENTERLINE A DISTANCE OF 2060.67 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE PROPERTY DESCRIBED AS FOLLOWS:

THAT PORTION OF THE EAST ONE-HALF (E 1/2) OF SECTION 26, TOWNSHIP 50 SOUTH, RANGE 40 EAST LYING NORTH OF THE SOUTH NEW RIVER CANAL, SAID PORTION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 26; THENCE ON A GRID BEARING OF SOUTH 01°47'01" EAST (BASED ON THE 'STONER/KEITH RESURVEY NO. 11' AS RECORDED IN MISCELLANEOUS PLAT BOOK 4, PAGE 21, BROWARD COUNTY RECORDS) ALONG THE EAST BOUNDARY OF SAID SECTION 26 A DISTANCE OF 606.00 FEET TO AN INTERSECTION WITH THE EASTERLY PROLONGATION OF THE APPROXIMATE CENTERLINE OF AN EXISTING CANAL; THENCE SOUTH 83°52'03" WEST ALONG SAID EASTERLY PROLONGATION AND SAID APPROXIMATE CENTERLINE A DISTANCE OF 135.37 FEET TO AN INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD 823, PARCEL NO. 163, ORDER OF TAKING, CIVIL ACTION NO. 88-18492DF DATED SEPTEMBER 6TH, 1988; THENCE SOUTH 06°32'27" EAST ALONG SAID WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 201.00 FEET; THENCE SOUTH 83°50'13" WEST AND ALONG THE SOUTHERLY TOP OF BANK OF SAID EXISTING CANAL A DISTANCE OF 1151.54 FEET; THENCE NORTH 83°17'03" WEST ALONG SAID TOP OF BANK A DISTANCE OF 311.46 FEET; THENCE NORTH 01°47'01" WEST 7.00 FEET; THENCE NORTH 83°52'03" EAST ALONG SAID CENTERLINE 2060.67 FEET TO THE POINT OF BEGINNING.

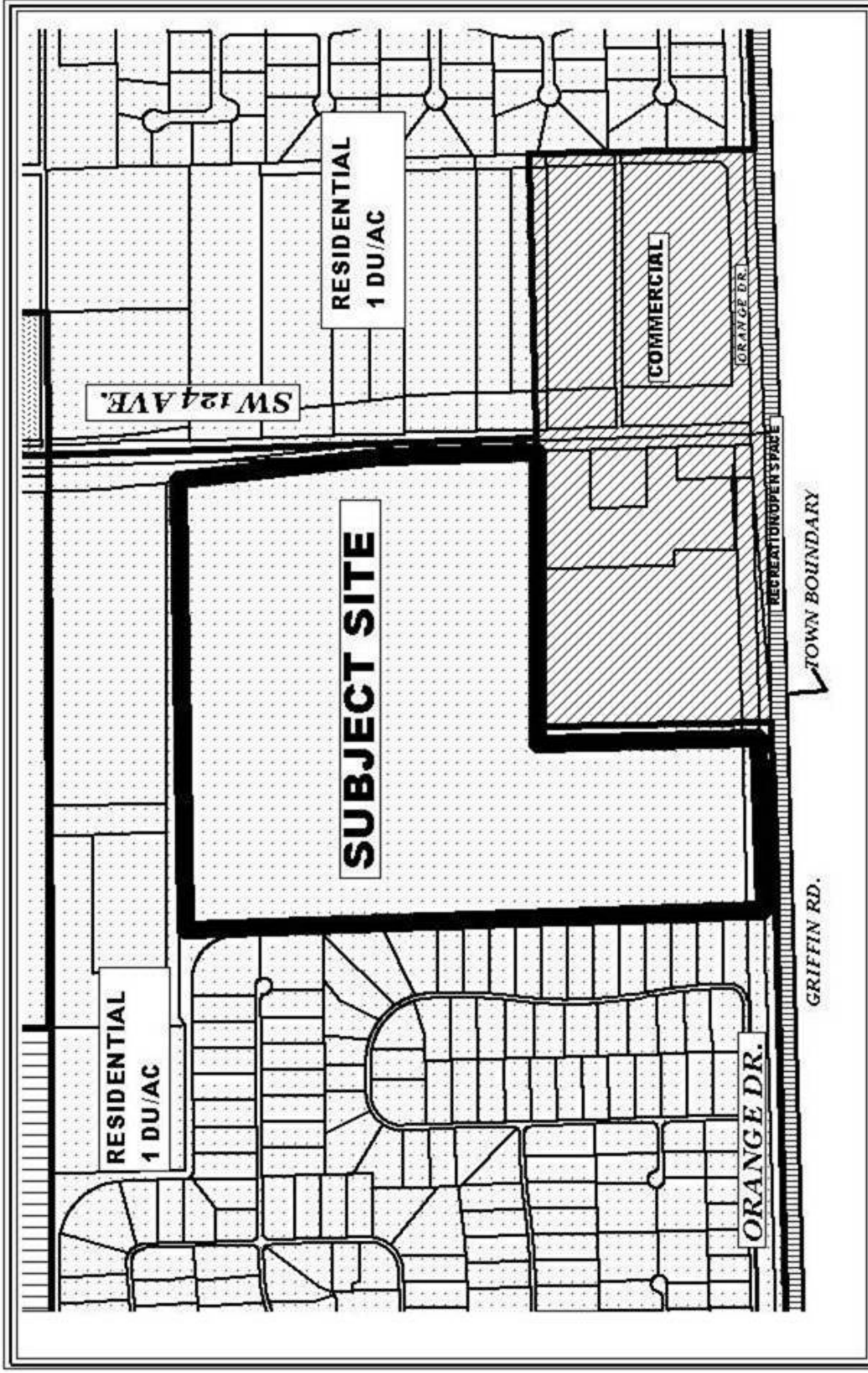
SAID LANDS SITUATE, LYING AND BEING IN THE TOWN OF DAVIE, BROWARD COUNTY, FLORIDA AND CONTAINING 4,230,711 SQUARE FEET (97.1238 ACRES).

EXHIBIT "B"

IMPROVEMENTS

Prior to plat or note amendment recordation, pay \$25,000 to Broward County for the installation of video detectors for all approaches at the intersection of Flamingo Road and Griffin Road.

Video detectors shall utilize ITERIS "VANTAGE-PLUS" video detector assemblies, ECONOLITE "SOLO PRO" video detector assemblies, or approved equivalent. *Depending on the intersection conditions, the system shall consist of three to six cameras with no more than six (6) lanes per camera, a video detection processor (VDP) capable of processing six wireless or wired video sources and a pointing device. The VDP shall be housed in a durable metal enclosure suitable for shelf mounting, not to exceed 0.58 feet height, 1.46 feet width and 0.87 feet depth. The VDP shall be modular in construction with plug in field replaceable units (FRU's) to minimize trouble shooting and repair time. The initial detection zones shall be dimensioned to comply with dimensions as per the plans.*



Planning & Zoning Division - GIS



Developers Agreement
DA 8-1-02
Existing Future Land Use Map



Planning & Zoning Division - GIS



Developers Agreement
 DA 8-1-02
 Subject Site and Aerial Map
 Date Flown: 12/31/01